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SUBJECT: HOMOSEXUALS STIGMATIZED, MARGINALIZED IN TANZANIA

REF: STATE 130765

¶1. (U) SUMMARY: Homosexuality has long been prohibited in Tanzania, but anti-homosexual laws have rarely if ever been used in recent years. Homosexuals in Tanzania face occasional police harassment and routine societal discrimination, which affects employment opportunities as well as access to medical care. The nascent NGO community that focuses on supporting the rights of gays and lesbians works in a challenging environment with limited resources. Because they must in large part operate underground, it is difficult for these NGOs to coordinate with one another or engage the GOT. However, in 2009 local NGOs publicly presented a paper to the Deputy Minister of Community Development on the stigma and discrimination facing members of their community. To improve coordination and advocacy efforts, local NGOs plan to establish a consortium of gay and lesbian support groups. END SUMMARY

LEGAL FRAMEWORK AND APPLICATION

¶2. (U) Since 1954 Tanzania's penal code has prohibited males from engaging in acts of "gross indecency" with persons of the same sex, whether publicly or privately. A person convicted under this law could be sentenced to five years in jail. The penal code also prohibits persons from having "carnal knowledge of any person against the order of nature" or allowing any male to have "carnal knowledge" of a man or a woman "against the order of nature". These prohibitions, in place since the mid-1950s, were in 1998 incorporated into the Sexual Offences Special Provisions Act and then into the revised penal code in 2002. Persons convicted under these stipulations of the law are subject to 30 years to life in prison. The law in semi-autonomous Zanzibar establishes a penalty of up to 25 years in prison for men who engage in homosexual relationships and seven years for women in lesbian relationships.

¶3. (SBU) Neither Tanzania nor Zanzibar has in recent years prosecuted individuals under these laws. However, there have been allegations that mainland police and prosecutors use laws against prostitution and loitering to harass homosexuals. Dr. Emmanuel Kandusi, Executive Director of the Centre for Human Rights Promotion, told Poloff that 39 individuals arrested on prostitution charges on October 7 were targeted for their membership in gay and lesbian support groups. Police made the arrests reportedly after receiving complaints from residents about prostitutes in their neighborhood. However, Kandusi asserted that the residents were upset that members of two local organizations, Community Peer Support Services (CPSS) and Tanzanian Lesbian Association (TALESA), were meeting in their neighborhood. As of December 28, the case had yet to be heard by the court. (Note: Kandusi said his organization began working to promote the rights of lesbians, gays, bisexuals, and transgender individuals (LGBTI) in 2000 after a group of Ugandans fled to Tanzania, fearing persecution in their home country. End Note.)

¶4. (SBU) Gay rights activist and CPSS member Ali Semsella related to Poloff other incidents of harassment and arrest. For example, a group of seven individuals arrested in January on charges of prostitution continue to be held in remand prison because they could not make the Tsh 500,000 bail (USD380). Semsella also said that he and five other members of CPSS were arrested in 2002 because of their efforts to provide a support network for gay men. Semsella claimed that they were beaten in jail as the police tried to extract confessions from them about their sexual orientation. According to Semsella, homosexuality seems to be tolerated more on Zanzibar than on the mainland.

¶5. (SBU) Due to the threat of arrest and other harassment, the gay and lesbian community in Tanzania has been reluctant to lobby the government to change the law against homosexual activity. However, in 2009 community members publicly presented to the Deputy Minister of Community Development a paper detailing the stigma and discrimination they face. Semsella noted that Embassies and International Organizations have more freedom to engage the government, but the government rarely responds by taking action to reduce stigma and discrimination, much less change discriminatory laws.

¶6. (U) In July, a group of international NGOs, including Global Rights and International Gay and Lesbian Human Rights Commission (IGLHRC), as well as a local NGO, the Centre for Human Rights Promotion, submitted a "shadow" report to the United Nations Human Rights Committee (UNHRC) which detailed the legal and societal discrimination faced by gays, lesbians, and transgendered people in Tanzania. The report stated that the laws against homosexuality interfere with an individual's right to privacy and encourage the stigmatization of gays, lesbians, and transgender people. The

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groups called on the government of Tanzania to amend the penal code to remove homosexuality as a criminal offense. The publication of this report coincided with Tanzania's fourth periodic report to the UNHRC. In its response to Tanzania's Fourth Periodic Report, UNHRC expressed concern about the criminalization of same sex relationships as well as the discrimination faced by those engaged in such relationships. UNHRC recommended that the GOT "should" decriminalize homosexual relationships.

SOCIETAL DISCRIMINATION

¶7. (SBU) Stigma and discrimination are pervasive throughout society. According to representatives from TALESA, CPSS, and the Centre for Human Rights Promotion, members of the gay community in Tanzania face significant discrimination from family members, religious institutions, health workers, and employers. Family members often fail to provide adequate emotional or material support, while religious leaders at times refuse to bury homosexuals. Semsella lamented the fact that many within the gay and lesbian community do not know their rights and are often afraid to assert themselves for fear of persecution.

¶8. (SBU) Gays and lesbians also face challenges securing stable employment. Both Semsella and Sofia Lugilabe of TALESA said they had been fired from their jobs as a result of their sexual orientation Q a common occurrence. Samsella was recently in court to assist two workers from a local security company who were petitioning the court for reinstatement after losing their jobs due to their sexual orientation. Lugilabe said such discrimination poses significant challenges in particular to women outside the capital, where job opportunities are more limited. Difficulty in securing steady employment further marginalizes homosexuals and makes them more likely to engage in transactional sex.

¶9. (SBU) Health providers discriminate against gays and lesbians, often refusing treatment and services, for example related to HIV/AIDS. In particular, it is difficult for homosexuals to obtain anti-retroviral treatment or even access voluntary counseling and testing facilities despite their increased risk. Anecdotal evidence suggests gay men are increasingly making use of a (USG-funded) confidential helpline for HIV and other health-related inquiries established in 2001. Kandusi said the Centre for Human Rights

Promotion is working to mainstream the needs of the lesbian and gay community into HIV/AIDS care, treatment, awareness, and counseling efforts.

¶10. (SBU) Activism for gay rights in Tanzania is a fairly new effort. NGOs supporting the homosexual community operate in a challenging environment as they face possible legal action as well as stigma and discrimination. Samsella said his organization, formed in 1996, was one of the first. Due to the anti-homosexual law, the group could not register as an organization supporting gay rights, but had to incorporate as an organization providing assistance to the poor and those with HIV/AIDS. NGOs supporting gays and lesbians also have difficulty finding and keeping office space. Both TALESA and CPSS reported being evicted by landlords once they became aware of the organizations' mission. Securing funding as well as assistance from other local NGOs has been problematic as well. One local human rights organization flatly refused to discuss the issue of discrimination against the homosexual community with CPSS, expressing indignation at the idea of becoming involved. Similarly, TALESA was rebuffed by the women's groups it approached for support. Lugilabe said the Tanzania Gender Networking Program (TGNP), for example, told her that TALESA needed to publish materials before TGNP could provide assistance.

¶11. (SBU) Kandusi said the lack of coordination among the various NGOs supporting gay rights affects the movement's success in Tanzania. The Centre for Human Rights Promotion is working to build a coalition of LGBTI organizations, which Kandusi hopes will increase capacity for advocacy and other activities.

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